

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 UNITED STATES OF AMERICA, )

4 Plaintiff, )

5 v. )

6 PIROUZ SEDAGHATY, et al., )

7 Defendants. )

) No. 05-60008-2-HO

) September 27, 2011

) Eugene, Oregon

8  
9 TRANSCRIPT OF SENTENCING PROCEEDINGS

10 BEFORE THE HONORABLE MICHAEL R. HOGAN

11 UNITED STATES DISTRICT COURT JUDGE

12  
13 -:-

14  
15  
16  
17  
18  
19  
20  
21  
22  
23 Deborah Wilhelm, CSR, RPR  
24 Court Reporter  
25 P.O. Box 1504  
Eugene, OR 97440  
(541) 431-4113

## APPEARANCES OF COUNSEL

FOR THE PLAINTIFF: CHRISTOPHER L. CARDANI  
United States Attorney's Office  
405 E. 8th Avenue, Suite 2400  
Eugene, OR 97401  
(541) 465-6771  
chris.cardani@usdoj.gov

CHARLES F. GORDER, JR.  
United States Attorney's Office  
1000 S.W. Third Avenue, Suite 600  
Portland, OR 97204-2902  
(503) 727-1021

FOR THE DEFENDANT: LAWRENCE H. MATASAR  
Lawrence Matasar, P.C.  
621 S.W. Morrison Street  
Suite 1025  
Portland, OR 97205  
(503) 222-9830  
larry@pdxlaw.com

STEVEN T. WAX  
MICHELLE SWEET  
Federal Public Defender  
101 S.W. Main Street, Suite 1700  
Portland, OR 97204  
(503) 326-2123  
steve\_wax@fd.org

1 (Tuesday, September 27, 2011; 1:37 p.m.)

2 P R O C E E D I N G S

3 THE CLERK: This is the time set for Criminal  
4 Case 05-60008, *United States of America versus Pirouz*  
5 *Sedaghaty*, time set for sentencing.

6 THE COURT: I am familiar with your papers.  
7 Happy to hear anything more you wish to add.

8 MR. WAX: Your Honor, we do not have a lot to  
9 say. We had identified a number of issues in the  
10 pleadings and in the hearing last November on which we  
11 believe rulings are needed in anticipation of the  
12 sentencing.

13 If it would help, I could go through the list.  
14 If you'd like any more input on any of them, we're happy  
15 to provide it. If not, I don't have anything more to  
16 add.

17 THE COURT: I don't really think I need that.  
18 If you don't hear about something, then bring it up.  
19 Why don't we do it that way?

20 MR. WAX: Fine. Thank you, Your Honor.

21 MR. CARDANI: Judge, we, too, having nothing  
22 else to add. For purposes of sentencing, the case was  
23 thoroughly briefed in the government's sentencing  
24 memorandum for last November's session. We stand on  
25 that.

1           And we would ask the court to make specific  
2       findings on the sentencing guideline issues up for  
3       grabs, and as well Mr. Wax did file a number of specific  
4       objections to the presentence report that will require  
5       Rule 32 findings.

6           THE COURT:   Yes.   All right.

7           MR. WAX:   Your Honor, Mr. Sedaghaty would like  
8       to make a brief comment to the court before you impose  
9       sentence depending on --

10          THE COURT:   That's next.

11          MR. WAX:   Thank you.

12          THE COURT:   Sir, if you would like to stand.  
13       Have you read the presentence report --

14          THE DEFENDANT:   Yes, sir.

15          THE COURT:   -- Mr. Sedaghaty?

16          THE DEFENDANT:   Yes, Your Honor.

17          THE COURT:   And have you talked to your lawyers  
18       about it?

19          THE DEFENDANT:   Yes, Your Honor.

20          THE COURT:   If you have a comment or any  
21       statement you wish to make about what is in that report  
22       or any other matter before I make my findings and impose  
23       sentence, now is your opportunity to do so, sir.

24          THE DEFENDANT:   Thank you, Your Honor.   I  
25       wanted to thank you for -- on my behalf and my family's

1     behalf to give us a chance to spend the last nine  
2     months, it was very meaningful and very valuable to us.  
3     Thank you very much.

4             THE COURT: All right. Is there anything  
5     further?

6             Okay. Let's go to the particular findings the  
7     court must make. One objection was to the  
8     recommendation concerning tax loss. And I find that the  
9     defendant knew that he falsified lines 1, 22 and 57a of  
10    the form, and verified the return by written declaration  
11    made under penalties of perjury.

12            And I find the tax loss under the calculations  
13    submitted in the presentence report are accurate. And  
14    that it is \$80,980.

15            With regard to obstruction of justice, and that  
16    requested -- or that recommended two-level increase,  
17    between September 2003 and October 2003, two false  
18    agreements were signed by defendant for the same  
19    transaction and given to IRS by legal representation for  
20    the al-Haramain Foundation and the defendant in response  
21    to a subpoena. The agreement was material to the  
22    investigation because it documented Mr. al-But'he's  
23    receipt and transportation of the El-Fiki donation from  
24    Ashland to Saudi Arabia, and, therefore, I will impose a  
25    two-level increase for obstruction of justice.

1           There is a recommended-by-probation increase  
2   for sophisticated or intricate, complex means. And  
3   Mr. Sedaghaty and Mr. al-But'he, I find, engaged in  
4   especially complex and intricate conduct when they  
5   withdrew the El-Fiki donation from the Bank of America  
6   account in Ashland, converted it to 130 traveler's  
7   checks, each for \$1,000 and one -- and another cashier's  
8   check, and transported the checks by plane to a bank in  
9   Saudi Arabia, that's Mr. al-But'he, where it would be  
10   very difficult for authorities to track and detect the  
11   money, and the purpose for which it was used, and,  
12   therefore, I impose a two-level increase under specific  
13   offense characteristics.

14           Now, the -- I believe the remaining increase  
15   sought by the government is for application of a  
16   terrorism enhancement. And there is little doubt in my  
17   mind that this money went to Chechnya, and that it went  
18   to the mujahideen, but I find there has been a failure  
19   to prove the terrorist enhancement because of the --  
20   certainly by clear and convincing evidence, which I  
21   think is appropriate here under the Ninth Circuit case  
22   law, because of the failure to prove a link between the  
23   defendant and the money being used for terrorist  
24   activities. There is no doubt the Chechen mujahideen  
25   were involved in terrorist activities, but there hasn't

1     been that link proved for this defendant.

2             What other findings do you request for the  
3     underlying sentence?

4             MR. CARDANI: Judge, before Mr. Wax speaks on  
5     the tax loss, there is an argument that under the Ninth  
6     Circuit law that because the tax loss increases the  
7     sentence under the guidelines fairly significantly, that  
8     the burden of proof should be clear and convincing  
9     evidence. Does the court so find?

10            THE COURT: Yes.

11            MR. CARDANI: I think those were all of the  
12     guideline issues, and the others would relate to the  
13     Rule 32 matters.

14            THE COURT: All right.

15            MR. WAX: One moment, please, Your Honor.

16            THE COURT: Excuse me, yes. Go ahead.

17            (Discussion held off the record between Mr. Wax  
18     and Mr. Matasar.)

19            MR. WAX: Your Honor, your ruling on the  
20     terrorism enhancement obviates the need for a number of  
21     the other specific objections that we --

22            THE COURT: I'm aware of that. That's why I  
23     didn't bother to rule on them.

24            MR. WAX: -- have made. I believe that there  
25     are still three or four issues that we had raised on

1 which a ruling would be needed.

2 We had argued that the government should be  
3 estopped from raising any claim with respect to tax loss  
4 on a number of theories that we articulated in our  
5 pleadings and at the hearing in November.

6 THE COURT: Thank you. To the extent that was  
7 a motion, it's denied. And what's the second?

8 MR. WAX: We had objected to the manner in  
9 which the presentence report was prepared, and  
10 particularly with your reference to the presentence  
11 report finding on a tax loss, we believe that that is  
12 still germane.

13 As you recall, the presentence writer in the  
14 presentence report said that the loss was complex and  
15 that -- if I am reading it and understanding it  
16 correctly essentially -- it was not something that she  
17 understood or could deal with, but nonetheless included  
18 a recommendation for the tax loss, and we believe that  
19 that is not appropriate under Rule 32.

20 THE COURT: Thank you. There was evidence on  
21 this at the trial. Was the \$80,000 number given at the  
22 trial?

23 MR. CARDANI: (Nodding head.)

24 THE COURT: All right. I'll rely on the  
25 evidence before me at the trial. The objection is



1 overruled.

2 MR. CARDANI: I might add that the IRS  
3 testified at sentencing as well, and repeated that  
4 figure, and that there was a form entered at the last  
5 sentencing hearing.

6 THE COURT: But you are correct, Mr. Wax, that  
7 it's not appropriate just to rely on what the probation  
8 officer said. She's not a tax expert. And I heard the  
9 other testimony.

10 MR. WAX: And then there were a number of  
11 specific factual objections that we made at the end of  
12 our sentencing letter, many of which are obviated  
13 because they related to the terrorism issue. I do not  
14 recall whether any of them -- well, yes, one of them did  
15 specifically --

16 THE COURT: If there is one, tell me. I went  
17 over this again in the last couple of hours, and I don't  
18 remember any that didn't relate.

19 MR. WAX: Let me just double check, please, to  
20 see whether any of them are still relevant. May I have  
21 a moment with Mr. Matasar, please, Your Honor?

22 THE COURT: Yes.

23 (Discussion held off the record between Mr. Wax  
24 and Mr. Matasar.)

25 MR. WAX: Your Honor, here is the concern that

1 I have, and I don't want to take up the court's time and  
2 seek rulings that are unnecessary: While you have ruled  
3 that you will not be applying the terrorism enhancement,  
4 some of the facts in the presentence report could be  
5 relevant if the court is looking at them in terms of  
6 a -- either a place in the advisory guideline range or a  
7 variance from the guideline range. And such --  
8 paragraph 12, as an example, recites that, you know,  
9 Aqil al-Aqil delegated Mr. al-But'he to establish a  
10 presence for AHIF in the United States. We don't  
11 believe there is any evidentiary support for that.

12 If the terrorism enhancement issue in its  
13 entirety is out of the case, then I don't believe that  
14 rulings are needed on that type of objection in the  
15 presentence report. If, however, you are still  
16 considering some of the terrorist aspects of the case  
17 for reasons other than the advisory calculation, then I  
18 think that it would be necessary to address a number of  
19 these specific factual challenges that we raised in our  
20 sentencing memorandum.

21 THE COURT: Well, if I were relying on them,  
22 I'd make rulings on them.

23 MR. WAX: I'm sorry?

24 THE COURT: If I were relying on them for --  
25 concerning the length of this sentence, I would make

1 rulings on them.

2 MR. WAX: Thank you.

3 THE COURT: Is there anything further?

4 MR. CARDANI: Judge, just on the money, the  
5 repayment of legal fees, that's addressed also in our  
6 sentencing --

7 THE COURT: Let's take that up after this.

8 MR. CARDANI: Nothing further.

9 THE COURT: We do have to consider that. And  
10 we'll do that in a moment.

11 All right. Well, Mr. Sedaghaty, based on these  
12 rulings, I find the total offense level here is 18; and  
13 the Criminal History Category I for an advisory range of  
14 27 to 33 months.

15 I've considered the advisory guideline range  
16 and the 3553(a) factors. I have selected a sentence  
17 that addresses the nature and circumstances of the  
18 offense, and the defendant's history and  
19 characteristics; protection of the public and to afford  
20 adequate deterrence to criminal conduct; particularly  
21 significant to me here is the obstruction of justice  
22 enhancement.

23 As to count 1, the defendant is committed to  
24 the Bureau of Prisons for confinement for a period of  
25 33 months;

1           As to count 2, the defendant is committed to  
2     the Bureau of Prisons for confinement for a period of  
3     33 months, to be served concurrently with the sentence  
4     imposed in count 1.

5           Upon release, the defendant shall serve a  
6     three-year term of supervised release, subject to the  
7     standard conditions and the following special  
8     conditions:

9           The defendant shall cooperate in the collection  
10    of DNA.

11          The defendant shall participate in a mental  
12    health treatment program approved by probation.

13          The defendant is prohibited from incurring new  
14    credit charges or opening additional lines of credit  
15    without approval of probation.

16          The defendant shall authorize release to  
17    probation of any and all financial information by  
18    execution of a release of financial information form or  
19    other appropriate means.

20          The defendant's employment is subject to  
21    approval of probation.

22          The defendant shall disclose all assets and  
23    liabilities to probation and not transfer or otherwise  
24    convey any asset with a fair market value in excess of  
25    \$500 without approval of probation.

1           The defendant shall have no contact with  
2 individuals known to be involved or have been involved  
3 in any activities which support terrorist activities or  
4 organizations.

5           The defendant shall not participate in any  
6 groups or organizations that support terrorist  
7 activities.

8           The defendant shall pay restitution to the  
9 victim identified in the presentence report in the  
10 amount of \$80,980. Any unpaid balance at the time of  
11 release from custody shall be paid at the maximum  
12 installment possible and not less than \$100 per month.

13           The defendant shall pay all taxes due and owing  
14 as determined by the Internal Revenue Service.

15           The defendant shall file true and accurate  
16 income tax returns to the Internal Revenue Service by  
17 the 15th of April each year, and supply a copy of that  
18 return to the probation office as directed.

19           The defendant shall submit a true and accurate  
20 tax return that he failed to file as determined by  
21 Internal Revenue Service.

22           The defendant shall meet with the Internal  
23 Revenue Service to determine his legal obligation to  
24 file tax returns, pay taxes, and sign any IRS forms  
25 deemed necessary by the IRS to enable the IRS to make an

1 immediate assessment of that portion of the tax and  
2 interest that he agrees to pay as restitution, including  
3 IRS Form 8821, tax information authorization.

4 No fine is ordered due to lack of financial  
5 resources and other obligations in this -- other  
6 financial obligations through this sentencing.

7 The defendant shall pay a \$250 fee assessment,  
8 due immediately in full.

9 Sir, you have the right to appeal from this  
10 sentence under certain circumstances. A notice of  
11 appeal must be filed within 14 days of entry of  
12 judgment.

13 If you are unable to pay the cost of an appeal,  
14 you may apply for leave to appeal in forma pauperis.  
15 And if you request, the clerk of court will prepare and  
16 file a notice of appeal on your behalf.

17 Do you understand, sir?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Now, there are other  
20 matters that we need to address, including the  
21 government's motion with regard to funds that were  
22 available to the defendant; whether the government's  
23 motion for -- concerning whether the defendant should be  
24 incarcerated at this time, that should be granted; and  
25 what are the other matters which I need to consider?

1           MR. WAX: Your Honor, we have been going  
2 through the record and have put together a chart which  
3 reflects things that we believe need to be made clear in  
4 the record.

5           We also have a request for unsealing certain  
6 transcripts. And I don't know that we would be able to  
7 complete work on the chart today.

8           Our thought was perhaps we would provide it to  
9 the government and the court, and see if we can agree on  
10 certain things, and then --

11          THE COURT: File something if you need to.

12          MR. WAX: We have it. We can file it -- well,  
13 we'll make sure it gets filed with the Clerk's Office  
14 today and we'll provide a copy to the government.

15          But we see that Mr. Slade is here and his input  
16 might be needed on some of those issues since many of  
17 the matters with respect to the record involve some of  
18 the CIPA proceedings.

19          THE COURT: He's here, but someone from his  
20 office today -- I won't say who -- congratulated me  
21 today on achieving senior citizenship, so I don't know  
22 how I feel about that. Go ahead.

23          MR. CARDANI: We'll be happy to meet with  
24 Mr. Wax and Mr. Matasar afterwards to see if we can come  
25 to an agreement which would obviate the need for the

1 court's ruling.

2 THE COURT: Now, with regard to the -- there  
3 are two affidavits that I had when the defendant sought  
4 appointed counsel. What, if any, basis is there that  
5 they be sealed at this time?

6 (Discussion held off the record between Mr. Wax  
7 and Mr. Matasar.)

8 MR. WAX: Your Honor, I did not review those  
9 affidavits before the proceeding today. Our recall of  
10 their contents is not complete.

11 As a general proposition, the information which  
12 a defendant provides to the court in the counsel process  
13 is between the defendant and the court. The government  
14 does not have a specific role in that.

15 If I am recalling correctly, these are  
16 affidavits or declarations from counsel?

17 THE COURT: No, from your -- from counsel, yes,  
18 but from your client.

19 MR. WAX: As well?

20 THE COURT: Yes. And there were -- they are  
21 affidavits concerning his financial situation, and they  
22 differ. And I don't know how -- at least with regard to  
23 one aspect of them -- I can make a decision on it  
24 without the government having the opportunity to  
25 respond.



1 MR. WAX: Before we take a position on their  
2 unsealing, may I have the opportunity to review them and  
3 refresh my recollection as to their contents?

4 THE COURT: Yes.

5 MR. WAX: I do not have them with me, so if I  
6 can borrow the court's copy?

7 THE COURT: They are not that long. Go ahead  
8 and hand these to Mr. Wax, please.

9 MR. CARDANI: Judge, while he's reviewing that,  
10 there was a reference in the record to a letter sent by  
11 Mr. Wax to the court on November 1, 2007, docketed under  
12 seal, also concerning funds.

13 THE COURT: That's in one of these envelopes.

14 MR. CARDANI: Okay.

15 THE COURT: I think it's the same one. I don't  
16 remember the date on the letter, but there is a letter  
17 there.

18 (Discussion held off the record between Mr. Wax  
19 and Mr. Matasar.)

20 MR. WAX: Your Honor, upon rereading the  
21 affidavits and the letter, it -- I believe that they  
22 should remain sealed; that they are not matters that the  
23 government either should be or needs to be privy to.  
24 They discuss a variety of attorney-client matters. And  
25 information that is contained therein, a --

1 THE COURT: Well, they have statements that  
2 conflict each other. They also have very sketchy sorts  
3 of statements about one aspect of it that certainly I  
4 need to know more about.

5 How do you suggest I do that without someone --  
6 without a worthy adversary, as they say?

7 MR. WAX: Well, Your Honor, as a general  
8 proposition, the assignment of counsel issues are  
9 addressed ex parte and ex parte between the court,  
10 defendant and his counsel. And in the same manner that  
11 the court addressed the --

12 THE COURT: That's true. I think we're at a  
13 different stage at this, aren't we, now?

14 MR. WAX: Well, Your Honor --

15 THE COURT: I'm going to give you each a week  
16 to submit something on that question.

17 MR. WAX: Thank you.

18 MR. CARDANI: Judge, before we leave this  
19 issue, we are, obviously, in the dark on most of it, but  
20 there does appear to have been close to \$59,000 posted  
21 as bond for Defendant Sedaghaty's release. And if  
22 that's sufficiently connected to him, it would appear as  
23 though that money is available, at the very least, to  
24 the repayment of the three-thousand-and-six so long as  
25 the government has paid out in excess of that for his

1 defense.

2 THE COURT: Mr. Cardani, that is unclear from  
3 what I have. But I will not authorize any of that money  
4 to be released. And my other -- my previous order  
5 regarding any sums referred to in these sealed documents  
6 stands at this point.

7 Now, I do see one other motion, I thought  
8 probably needed a ruling. You had a defense motion to  
9 strike Government's Exhibit Number 1 because it included  
10 Social Security and Taxpayer Identification Numbers. I  
11 think that motion should be granted, but I'll allow the  
12 government to file a copy of those returns that don't  
13 have that identifying information.

14 MR. CARDANI: Excuse me, I think we already  
15 dealt with that at the last hearing.

16 THE COURT: Oh, we have? Okay. It was in my  
17 file of paper and I didn't know why I missed it before.  
18 So thank you very much.

19 MR. CARDANI: If that motion hasn't been --

20 THE COURT: I'll file that motion.

21 MR. CARDANI: Okay. If that ruling hasn't been  
22 reflected in the record, we have no objection to  
23 granting it.

24 THE COURT: All right. Is there anything at  
25 this time besides the motion to remand to custody?

1 MR. WAX: Well, in addition to that matter,  
2 Your Honor, we would request that the court recommend  
3 that Mr. Seda be permitted to serve his sentence at the  
4 camp at Sheridan. We believe that given the --

5 THE COURT: Granted.

6 MR. WAX: Thank you.

7 MR. MATASAR: Thank you. Thank you.

8 THE COURT: All right. Is there any more  
9 argument on the motion to remand?

10 MR. GORDER: Your Honor, on behalf of the  
11 government, we had prepared at the last hearing, and we  
12 never got there, a spreadsheet of entries and exits from  
13 various countries in the Middle East that Mr. Sedaghaty,  
14 from his passports, U.S. and Iranian, I think we had  
15 given a copy to the defense back in November, but I'd  
16 submit it at this time for the court.

17 Just as summary, it shows that at least 20  
18 occasions between 2003 and 2007 he entered and exited  
19 various countries in the Middle East: Oman, United Arab  
20 Emirates, Kingdom of Saudi Arabia, Syria and Iran.

21 And I would also point the court to an exhibit  
22 that the defense filed in CR 44 back early in the case,  
23 Exhibit G, which was Mr. Sedaghaty's own explanation of  
24 where he was during some of that time period. And it  
25 just shows, without a doubt, his abilities to float

1 around the Middle East, all countries of which we do not  
2 have extradition treaties with.

3 THE COURT: Anything further?

4 MR. MATASAR: Yes, Your Honor. I'd like to  
5 respond first to that. It's in the memorandum  
6 indicating that that issue and other issues were  
7 addressed already by the court in deciding to release  
8 Mr. Seda previously.

9 THE COURT: It's a different situation now,  
10 though. He makes a good point. It doesn't mean I'm  
11 going to remand him, but we have a different situation  
12 now.

13 MR. MATASAR: I understand, Your Honor. We  
14 have a different situation. But the situation is also  
15 different because of the fact that Mr. Seda has an  
16 appeal. So I'm looking at this not just as should he be  
17 taken into custody immediately, but should he be  
18 released pending appeal?

19 And certainly this case -- and now is not the  
20 time for me to be trying to convince Your Honor of the  
21 incorrectness of your rulings, if you will, but clearly,  
22 I think, the court could understand that there are some  
23 unusual issues and important issues at stake in this  
24 case. That -- and you know better than we do that we  
25 don't know what the appellate court is going to do. And

1 because the decision will likely not be until after he  
2 has served his entire sentence, that that is an  
3 important factor for the court to consider.

4 And, finally, let me address the government's  
5 position. They have really been wrong every step of the  
6 way. They said Mr. Seda was a flight risk before Judge  
7 Coffin, and he was released. They said he was a flight  
8 risk before you. They said he would not come here  
9 today. They said, in their motion, that he has lost  
10 hope, there is no reason for him to have any hope, and  
11 he continues to appear, he continues to prove them  
12 wrong, and to justify the trust that Your Honor and  
13 Judge Coffin gave in him. He's going to appear.

14 Between his empirical data that we have that he  
15 always comes to court, that he stays in touch with his  
16 lawyers, which is a fact. And the Pretrial Services, I  
17 believe they have recommended that he be allowed to  
18 voluntarily surrender. Is that accurate? I believe --

19 THE COURT: I've got the report here, but I'm  
20 going to decide that.

21 MR. MATASAR: I understand that. But just as  
22 they made a recommendation pretrial, they make a  
23 recommendation here. I'm not suggesting that it's their  
24 decision. I know it's Your Honor's decision. But here  
25 we have the empirical fact that he has always come, and

1 so we'd ask the court to allow him to be out of custody  
2 pending the appeal.

3 THE COURT: All right. Well, there is two  
4 matters there. One is if you're requesting pending  
5 appeal or if I give him a reporting date. And I -- if I  
6 do not -- if I allow his release but not pending appeal,  
7 how long do you wish for him to report?

8 MR. MATASAR: Your Honor, I think if -- Mr. Wax  
9 informs me that 60 days should be an appropriate time  
10 for designation.

11 THE COURT: It takes that long, at least.

12 All right. Sir, I want you to understand this,  
13 this is between you and me.

14 THE DEFENDANT: Yes.

15 THE COURT: Not the lawyers. So far, you have  
16 done what you've told me you'd do. And I'm going to  
17 deny the motion to remand because of that. But don't do  
18 something to break my confidence in that regard.

19 So I'm going to leave you on your current  
20 release conditions. But if I hear something even  
21 slightly adverse to that, I'll end that state of  
22 affairs. Do you understand me?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: So the motion is denied. I'll  
25 allow 60 days to self report.

1           What else do we have this morning -- or this  
2   afternoon, folks? Thank you very much. We're in  
3   recess.

4           MR. WAX: Excuse me, Your Honor, we would ask  
5   that you withhold entry of the judgment until we've had  
6   an opportunity to work on the issues with respect to the  
7   record. If you enter the judgment, then --

8           THE COURT: Any objection?

9           MR. CARDANI: No.

10          THE COURT: Thank you. I'll do it.

11          MR. WAX: We'll let the court know when we're  
12   further along with that. Thank you.

13          THE COURT: That's fine.

14          (The proceedings were concluded at 2:14 p.m.)

15

16

17

18

19

20

21

22

23

24

25



## 1 CERTIFICATE

2 I, Deborah Wilhelm, Certified Shorthand Reporter  
3 for the State of Oregon, do hereby certify that I was  
4 present at and reported in machine shorthand the oral  
5 proceedings had in the above-entitled matter. I hereby  
6 certify that the foregoing is a true and correct  
7 transcript, to the best of my skill and ability, dated  
8 this 5th day of October, 2011.

9  
10  
11  
12 /s/ Deborah Wilhelm

13 \_\_\_\_\_  
14 Deborah Wilhelm, RPR  
15 Certified Shorthand Reporter  
16 Certificate No. 00-0363  
17  
18  
19  
20  
21  
22  
23  
24  
25